

# BEFORE THE TENNESSEE STATE BOARD OF EQUALIZATION

IN RE: Matheson Properties )  
Dist. 15, Map 49D, Group B, Control Map 49D, ) Carter County  
Parcels 3.00, 4.00, 13.00 and 14.00, S.I. 000 )  
Industrial Property )  
Tax Year 2006 )

## INITIAL DECISION AND ORDER

### Statement of the Case

The subject property is presently valued at \$4,554,400 as follows:

<u>Parcel</u>	<u>Land Value(\$)</u>	<u>Improvement Value(\$)</u>	<u>Total Value(\$)</u>	<u>Assessment(\$)</u>
3.00	574,300	3,399,200	3,973,500	1,589,400
4.00	442,000	0	442,000	176,800
13.00	25,500	0	25,500	6,375
14.00	19,700	93,700	113,400	45,360

An appeal has been filed on behalf of the property owner with the State Board of Equalization. The undersigned administrative judge conducted a hearing in this matter on April 10, 2007 in Elizabethton, Tennessee. In attendance at the hearing were registered agent Paul W. Shoup, Gerald Holly, Carter County Property Assessor, and staff member Ronnie Taylor.

### FINDINGS OF FACT AND CONCLUSIONS OF LAW

Subject property consists of a 34.4 acre site improved with a 264,000<sup>±</sup> industrial facility located at 1999 State Line Road in Elizabethton, Tennessee.<sup>1</sup> Subject property was historically utilized as an aluminum extrusion plant by Alcoa Extrusions, Inc. ["Alcoa"].

The taxpayer contended that subject property should be valued at \$1,500,000 in accordance with the April 12, 2005 purchase price. In support of this position, the taxpayer introduced evidence showing that Alcoa had unsuccessfully marketed subject property through NAI Global for approximately a twenty (20) month period. At that point, Alcoa contracted with the Hart Corporation to auction subject property.

The auction took place on March 1, 2005 with a reserve price of \$2,000,000. The highest bid received was \$1,100,000 from Matheson Properties ["Matheson"]. Alcoa declined to accept the bid, but proceeded to negotiate directly with Matheson. The negotiations culminated in the sale of subject property on April 12, 2005 for \$1,500,000. The \$1,500,000 purchase price included a \$150,000 auction commission.

The taxpayer maintained that its \$1,500,000 purchase price was indicative of market value and consistent with sales of similar industrial facilities. In support of this position,

<sup>1</sup> The current appraisal of subject property reflects 36.64 acres. The parties are in agreement, however, that subject property should be appraised as having 34.4 acres.

Mr. Shoup introduced seventeen (17) sales which sold for an average of \$8.03 per square foot.

The assessor contended that subject property should remain valued at \$4,554,400. In support of this position, Mr. Holly essentially argued that he did not believe the taxpayer's purchase price was indicative of market value. Both Mr. Holly and Mr. Taylor testified they were not even aware subject property was for sale until the auction was advertised.

Mr. Holly also testified that subject property is currently being marketed in separate tracts for a total price of \$4,350,000.

The basis of valuation as stated in Tennessee Code Annotated Section 67-5-601(a) is that "[t]he value of all property shall be ascertained from the evidence of its sound, intrinsic and immediate value, for purposes of sale between a willing seller and a willing buyer without consideration of speculative values . . ."

General appraisal principles require that the market, cost and income approaches to value be used whenever possible. Appraisal Institute, *The Appraisal of Real Estate* at 50 and 62. (12th ed. 2001). However, certain approaches to value may be more meaningful than others with respect to a specific type of property and such is noted in the correlation of value indicators to determine the final value estimate. The value indicators must be judged in three categories: (1) the amount and reliability of the data collected in each approach; (2) the inherent strengths and weaknesses of each approach; and (3) the relevance of each approach to the subject of the appraisal. *Id.* at 597-603.

The value to be determined in the present case is market value. A generally accepted definition of market value for ad valorem tax purposes is that it is the most probable price expressed in terms of money that a property would bring if exposed for sale in the open market in an arm's length transaction between a willing seller and a willing buyer, both of whom are knowledgeable concerning all the uses to which it is adapted and for which it is capable of being used. *Id.* at 21-22.

Since the taxpayer is appealing from the determination of the Carter County Board of Equalization, the burden of proof is on the taxpayer. See State Board of Equalization Rule 0600-1-.11(1) and *Big Fork Mining Company v. Tennessee Water Quality Control Board*, 620 S.W.2d 515 (Tenn. App. 1981).

The administrative judge finds that the taxpayer introduced insufficient evidence to substantiate its contention of value. The administrative judge finds that the taxpayer did not even introduce a cost or income approach into evidence. Moreover, as will be discussed below, the administrative judge finds that both the taxpayer's purchase of subject property and Mr. Shoup's comparables lack probative value absent additional proof and analysis.

The administrative judge finds it is well recognized that one sale does not necessarily establish market value. As observed by the Arkansas Supreme Court in *Tuthill v. Arkansas County Equalization Board*, 797, S. W. 2d 439, 441 (Ark. 1990):

Certainly, the current purchase price is an important criterion of market value, but it alone does not conclusively determine the market value. An unwary purchaser might pay more than market value for a piece of property, or a real bargain hunter might purchase a piece of property solely because he is getting it for less than market value, and one such isolated sale does not establish market value.

The administrative judge finds that the State Board of Equalization has historically refused to adopt auction sales, foreclosure sales, bankruptcy sales etc. as good indicators of market value. See, e.g., *William J. Groom* (Assessment Appeals Commission, Davidson Co., Tax Years 1993 & 1994); *D.H. & D.M. MacDermid* (Assessment Appeals Commission, Marshall Co., Tax Year 1991); *Armed Services Mutual Benefit Assoc.* (Assessment Appeals Commission, Davidson Co., Tax Years 1991 & 1992); and *Richard F. Laroche* (Assessment Appeals Commission, Rutherford Co., Tax Year 1994).

The administrative judge finds that so little evidence was introduced concerning the marketing of subject property through NAI Global that no conclusion can be reached with respect to the property's failure to sell. For example, there is nothing in the record to establish how the property was marketed and for what price. Indeed, both Mr. Holly and Mr. Taylor testified they were not even aware subject property was for sale until the auction was advertised.

Respectfully, the administrative judge must reject Mr. Shoup's assertion that the seventeen (17) comparable sales summarized in exhibit #1 support the taxpayer's contention of value. The administrative judge finds that the sales were not adjusted despite the significant differences between the subject and comparables. For example, the comparables ranged from 165,500 square feet to 471,376 square feet and had sites ranging from 8.3 acres to 111 acres. The administrative judge finds that the procedure typically utilized in the sales comparison approach has been summarized in one authoritative text as follows:

To apply the sales comparison approach, an appraiser follows a systematic procedure.

1. Research the competitive market for information on sales transactions, listings, and offers to purchase or sell involving properties that are similar to the subject property in terms of characteristics such as property type, date of sale, size, physical condition, location, and land use constraints. The goal is to find a set of comparable sales as similar as possible to the subject property.
2. Verify the information by confirming that the data obtained is factually accurate and that the transactions reflect arm's-length, market

considerations. Verification may elicit additional information about the market.

3. Select relevant units of comparison (e.g., price per acre, price per square foot, price per front foot) and develop a comparative analysis for each unit. The goal here is to define and identify a unit of comparison that explains market behavior.
4. Look for differences between the comparable sale properties and the subject property using the elements of comparison. Then *adjust the price of each sale property to reflect how it differs from the subject property or eliminate that property as a comparable*. This step typically involves using the most comparable sale properties and then adjusting for any remaining differences.
5. Reconcile the various value indications produced from the analysis of comparables into a single value indication or a range of values.

[Emphasis supplied]

Appraisal Institute, *The Appraisal of Real Estate* at 422 (12<sup>th</sup> ed. 2001).

The administrative judge finds the use of an average sale price meaningless when the sales range from \$3.82 per square feet to \$12.64 square feet. The administrative judge finds that when deriving an estimate of value from comparative sales data, another textbook cautions that:

**In selecting the single value estimate, the assessor must never average the results.** Rather, the process requires the assessor to review the adjustments made and place the greatest reliance on the most comparable property. This comparable is the one that requires the fewest adjustments. [Emphasis added.]

International Association of Assessing Officers, *Property Assessment Valuation* (2<sup>nd</sup> ed. 1996), pp. 123-24.

Based upon the foregoing, the administrative judge would normally affirm the current \$4,554,400 appraisal based upon the presumption of correctness attaching to the decision of the Carter County Board of Equalization. In this case, however, the administrative judge finds that Mr. Holly's testimony concerning the marketing of subject property supports a modest reduction in value. The administrative judge finds that subject property presently has superior access than it did on January 1, 2006 which enhances its value. Moreover, it stands to reason that subject property will sell for less than the listing price. The administrative judge finds the preponderance of the evidence supports adoption of a value of \$4,000,000 as follows:

<u>Parcel</u>	<u>Land Value(\$)</u>	<u>Improvement Value(\$)</u>	<u>Total Value(\$)</u>	<u>Assessment(\$)</u>
3.00	518,300	2,900,800	3,419,100	1,367,640
4.00	442,000	0	442,000	176,800
13.00	25,500	0	25,500	6,375
14.00	19,700	93,700	113,400	45,360

The adopted value for parcel 3 reflects 20.73 acres rather than 22.97 as the parties stipulated subject site has a total of 34.4 acres rather than 36.64 acres as indicated on the property record cards.

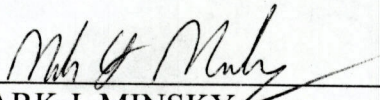
It is FURTHER ORDERED that any applicable hearing costs be assessed pursuant to Tenn. Code Ann. § 67-5-1501(d) and State Board of Equalization Rule 0600-1-.17.

Pursuant to the Uniform Administrative Procedures Act, Tenn. Code Ann. §§ 4-5-301—325, Tenn. Code Ann. § 67-5-1501, and the Rules of Contested Case Procedure of the State Board of Equalization, the parties are advised of the following remedies:

1. A party may appeal this decision and order to the Assessment Appeals Commission pursuant to Tenn. Code Ann. § 67-5-1501 and Rule 0600-1-.12 of the Contested Case Procedures of the State Board of Equalization. Tennessee Code Annotated § 67-5-1501(c) provides that an appeal **“must be filed within thirty (30) days from the date the initial decision is sent.”** Rule 0600-1-.12 of the Contested Case Procedures of the State Board of Equalization provides that the appeal be filed with the Executive Secretary of the State Board and that the appeal **“identify the allegedly erroneous finding(s) of fact and/or conclusion(s) of law in the initial order”**; or
2. A party may petition for reconsideration of this decision and order pursuant to Tenn. Code Ann. § 4-5-317 within fifteen (15) days of the entry of the order. The petition for reconsideration must state the specific grounds upon which relief is requested. The filing of a petition for reconsideration is not a prerequisite for seeking administrative or judicial review; or
3. A party may petition for a stay of effectiveness of this decision and order pursuant to Tenn. Code Ann. § 4-5-316 within seven (7) days of the entry of the order.

This order does not become final until an official certificate is issued by the Assessment Appeals Commission. Official certificates are normally issued seventy-five (75) days after the entry of the initial decision and order if no party has appealed.

ENTERED this 1st day of May, 2007.

  
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MARK J. MINSKY  
ADMINISTRATIVE JUDGE  
TENNESSEE DEPARTMENT OF STATE  
ADMINISTRATIVE PROCEDURES DIVISION

c: Mr. Paul W. Shoup  
Gerald Holly, Assessor of Property